



Pat Conley@comcast.net
09/03/2008 04:44 PM

To: pat.brooks@gsa.gov
cc
bcc
Subject: FW: Comments for MAS Advisory Panel

Pat,

Apparently there was a problem with the e-mail address in the FR announcement, so I am forwarding the comments directly to you. As noted below, I sent the hard copy to the FR address. Please let me know if you have any problem receiving or reading the attachment or hard copy and I will resend.

Pat Conley

----- Forwarded Message -----

From: Pat Conley@comcast.net
To: mas.advisorypanel@gsa.gov
Subject: Comments for MAS Advisory Panel
Date: Wed, 03 Sep 2008 20:18:46 +0000

> I appreciate the opportunity to submit the attached comments to the MAS Advisory

> Panel. The comments are attached. A signed hard copy has been mailed on this

> date

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> If the panel has any questions, or if I can be of any assistance to them in their deliberations, please let me know

>

> Patrick Conley

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> Pat.Conley@comcast.net

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> 703-368-2878

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----- Message from Pat Conley@comcast.net on Wed, 03 Sep 2008 20:18:46 +0000 -----

To: mas.advisorypanel@gsa.gov.

Subject: Comments for MAS Advisory Panel



to MAS panel.doc

Patrick Conley
10012 Copeland Dr
Manassas, VA

September 2, 2008

GSA Multiple Award Schedule Advisory Panel
General Services Administration
2011 Crystal Drive
Suite 911
Arlington, VA 22205

Dear Distinguished Panel Members,

Your charter's goal is "assist GSA in assuring that such policies result in MAS prices that are the lowest overall price" "Lowest overall price" being a statutory objective of the MAS program. From this goal, the panel has established proposition that MAS prices do not matter as one of its five basic questions, that are to form the basis of your report,

Such a proposition is inconsistent with the representation in FAR 8.402 that the prices have been determined fair and reasonable. The FAR representation is not made conditionally, but a pledge GSA makes to the agencies to trust that GSA has done its job.

Even with the competitive market described in FAR 8.4, the MAS price is important. The image of a Government customer calling in for additional discounts is an ideal but dated image of Government purchasing. Most orders are processed electronically or through call centers, as it is more efficient than entering conversations with the vendor. There is no opportunity to negotiate prices and Government buyers do not have time to bicker over routine purchases. Routine orders are sent out at the established prices, whether the schedule price itself or from a supplemental agreement, such as a BPA. Widely used, electronic ordering systems lack the ability to bicker or to accumulate orders for order quantity discounts. "Unit of one" pricing is important because of large volume of orders placed at that level.

The importance of schedule pricing goes beyond the direct schedule buys, BPAs, most GWACs and MACs are based on the schedule pricing. Either discounts off of schedules or prices must be better than or equal to MAS schedule pricing. To keep

these contract arrangements viable, a relationship is established to current, fair and reasonable GSA prices

For T&M and fixed priced services, the schedule prices should serve the same purpose as a DCAA recommended rate for a non-commercial contract. The fact is that determining a fair and reasonable price for a labor hours is difficult and complex. GSA promises to undertake this function in the schedule program. At the order level, contractors have little incentive to lower their labor rates from the schedule price when technical factors are the dominant award criteria. Even where the offeror discounts the GSA rate for the initial order award, changes are often negotiated at the then current GSA rate. If GSA cannot find a way to determine labor hour rates fair and reasonable, then they do not belong on a schedule contract.

In your deliberations, keep in mind size of the MAS program (the \$37.7 billion in 2007), when considering the administrative burdens associated with the MFC and the Price Reduction policies. The Government prices paid will be not improved as a result of GSA relieving the offerors' or contractors' burden of identifying or tracking a MFC or designated customer. However, there is significant risk that if the instances of ineffective competition at the order level represent even a moderate percentage of the schedule sales, the overall cost to the Government will be substantial.

Any commercial firm managing a \$37 billion dollar program would make a significant effort to understand how their program works, rather than relying on speculations and presumptions. As schedule manager, GSA should establish ongoing programs to answer the questions on the reasonableness of MAS pricing, how agencies use the schedule program and the impact of MAS prices on the Government as a whole. GSA should have a reasoned estimate of the total dollar impact of a pricing policy change on the Government, prior to making that decision. The panel should recommend that GSA undertake the following efforts similar to the following to assure MAS policy decisions of have a factual rather than speculative basis.

- The panel should recommend that GSA perform research into the commercial market buying practices as performed purchasing departments of multi-divisional corporations
- The panel should recommend systematic studies, using minimally invasion surveys and the latest available information on behavioral economics, be done to determine what role the schedule price plays in MAS acquisitions
- The panel should recommend that GSA establish a system for accumulating the sales practices information it receives monitoring schedule pricing to assure its continuing reasonableness

As the price analyst for FSS, from 1979 to 2005, I know the problems with pricing products and services on the schedule program. I drafted many of the Procurement Information Bulletins (PIBs) and acquisition letters that tried to clarify pricing for the MAS for GSA negotiators. I participated in many negotiations and industry discussions, on the subject in general and how it applied to individual schedules. The goal was a reasonable approach to establishing schedule pricing that met the FAR requirements and DSAM criteria to be fair to both Government and contractor. With the information available, a CO could not apply the full leverage appropriate to the schedule generated revenue, making these negotiations less effective.

I know the current pricing model is less than ideal, however, I do not know of any criteria beyond MFC that could be used to determine price reasonable in markets as diverse as the MAS program. Only traded commodities, items off of e-BAY or state term contracts have publically available transactional pricing information. GSA's reasonable price determination has to be based on information provided by the offeror. Based on my experience, I recommend the following:

- MFC should remain the best customer, commercial or Government, with consideration of differences as currently allowed
- Request for commercial sales practices information
 - Should allow for customized for each schedule to match the selling and contracting practices in that schedule industry,
 - Should provide information of Government and commercial sales, and
 - Should be in a form whereby information can be accumulated in a way that GSA can establish the market pricing in the industry with only the goal of obtaining information in the GSAR
- All modifications adding items and Economic Price Adjustment price increases should provide for CSP data to support, without permitting the "no change from previous" loophole
- Labor hour rates, both professional and SCA, should have a mechanism to be varied or adjusted for geographical area differences
- Each contractor should define its own labor categories, including general qualifications, specific qualifications and the work that they perform. GSA should require specific, minimum information that must be included in each definition. This will permit comparability between offerors
- Contractors without significant commercial sales cannot be given a pass on all price reductions
 - Government unique Dealers of products whose negotiations were based on manufacturer or wholesaler supplied

information must establish a requirement in their agreements with the manufacturer or distributor that flows down the price reduction clause consistent with the negotiations

- The current, no flow down, policy encourages manufacturers and distributors to use Government only dealers as a loophole Closing the loophole will increase direct participation under the schedule
- Service contractors with only Government customers should designate the Government agency whose prices formed the basis of the negotiations as the basis of the Price Reduction clause

I thank you for considering my comments If you have any questions for me, please send them to me at the above address or through e-mail

For background purposes, I retired from the GSA in September 2007 as a price analyst, prior to working for GSA, I was a price analyst for DFSC (now DESC) and DCAS (now DCMA) I am not a GSA contractor I teach general contracting classes, and assist in the preparation of training materials as a subcontractor to schedule contractors

Thank you again for your time I wish you success in your deliberations

Sincerely,

Patrick B Conley